

1 **BY AUTHORITY**

2 ORDINANCE NO. \_\_\_\_\_

COUNCIL BILL NO. CB24-1154

3 SERIES OF 2024

COMMITTEE OF REFERENCE:

4 Land Use, Transportation & Infrastructure

5 **A BILL**

6 **For an ordinance amending Chapter 27 (Housing) of the Denver Revised**  
7 **Municipal Code to amend provisions relating to negotiated alternatives and high**  
8 **impact developments.**

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10 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

11 **Section 1.** That subsection (a) of section 27-154, D.R.M.C. is amended by adding the  
12 language underlined to read as follows:

13 **Sec. 27-154. Exceptions.**

14 (a) Construction upon any property which is, alone or in combination with other  
15 properties, the subject of a contractual commitment or covenant that is dated and properly  
16 recorded prior to the imposition of a linkage fee on the first structure on the property and  
17 is enforceable by the city to construct affordable housing, including by way of example  
18 any development or subdivision agreement which includes an affordable housing  
19 covenant and to which the city is a party, any city-approved plan to build moderately  
20 priced development units (MPDUs) under article IV of this chapter 27, any city-approved  
21 plan to build affordable units in place of the linkage fee, any high impact development  
22 compliance plan executed and recorded pursuant to article X, division 3 of this Chapter  
23 27 where a payment of fees to support affordable housing development is contained in  
24 the high impact development compliance plan, or an affordable housing plan executed to  
25 meet incentive requirements under article VI of this Chapter 27. The exception provided  
26 by this subsection (a) shall apply only for so long as such contractual commitment or  
27 covenant to construct affordable housing remains in effect. Construction upon property  
28 that, alone or in combination with other properties, was originally developed under such  
29 a contractual commitment or covenant and is substantially proposed for redevelopment  
30 shall be subject to payment of linkage fees hereunder unless the redevelopment is  
31 governed by a new contractual commitment or covenant to construct affordable housing,

1 or otherwise qualifies for an exception under any other provision of this section.

2 **Section 2.** That subsections (p) and (t) of Section 27-219, D.R.M.C. are amended by  
3 deleting the language stricken and adding the language underlined to read as follows:

4 **Sec. 27-219. – Definitions.**

5 The following words and phrases, as used in this article, have the following  
6 meanings:

7 (p) *IRU or income-restricted unit* means a dwelling unit required by this article  
8 ~~required to be affordable as set forth in this article~~ section 27-224, a negotiated  
9 alternative, or a high impact development compliance plan.

10 (t) *Residential development* means any project that would create ten (10) or  
11 more new dwelling units at one location by (i) the construction or alteration of structures  
12 or (ii) the conversion of a use within an existing structure to a residential use containing  
13 dwelling units from any other non-residential use. If a project has both residential and  
14 non-residential uses, the residential portion of a project shall be considered a residential  
15 development if it would create ten (10) or more new dwelling units.

16 **Section 3.** That subsection (c) of section 27-224, D.R.M.C. is amended by adding the  
17 language underlined as follows:

18 **Sec. 27-224. – On-site compliance requirements.**

19 (c) *Enhanced on-site compliance; incentives.*

20 (1) *Enhanced incentives.* To increase the overall supply of housing and  
21 encourage applicants to provide on-site IRUs in excess of the base requirements  
22 specified in subsection (a), an applicant is eligible for the incentives set forth in a.  
23 through c. of this subsection if the applicant provides IRUs as follows:

Market Area	Applicant Compliance Options	Minimum percent of total dwelling units to be IRUs	Maximum AMI for eligible households	
High Market Area	H-1E	12% of total dwelling units	Rental developments: 60% of AMI	Ownership developments: 80% of AMI
	H-2E	18% of total dwelling units	Rental developments: An effective average of 70% of AMI	Ownership developments: An effective average of 90% of AMI
Typical Market Area	T-1E	10% of total dwelling units	Rental developments: 60% of AMI	Ownership development: 80% of AMI
	T-2E	15% of total dwelling units	Rental developments: An effective average of 70% of AMI	Ownership developments: An effective average of 90% of AMI

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a. *Access to base incentives.* An applicant is eligible for the base incentives for on-site compliance set forth in section 27-224(b)(1).

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b. *Height and floor area increase.* A residential development shall be entitled to an increase in building height and floor area ratio in accordance with the provisions set forth in articles 8 and 10 of the Denver Zoning Code.

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c. *Vehicle parking exemption.* A residential development shall be entitled to a vehicle parking exemption in accordance with the provisions set forth in article 10 of the Denver Zoning Code.

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**Section 4.** That subsection (d) of 27-226, D.R.M.C. is amended by adding the language

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underlined as follows and recodifying the current subsection (d) to a new subsection (e):

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**Section 27-226 - Alternative compliance—Negotiated alternatives.**

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(d) The director may grant access to the enhanced incentives for on-site

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compliance set forth in section 27-224(c)(1) when the residential development is providing

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IRUs on-site, the negotiated alternative better supports the goals of the HOST strategic

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plan, comprehensive plan goals, and any small area plan applicable to the residential

1 development compared to the enhanced on-site compliance requirements of section 27-  
2 224(c)(1), and the applicant provides at least one of the following:

3 (1) a greater percentage of IRUs than would otherwise be required for  
4 enhanced on-site compliance based on the residential development's market area  
5 and compliance option, with the maximum AMI for eligible households detailed in  
6 the negotiated alternative; or

7 (2) a maximum AMI for eligible households that is lower than would otherwise  
8 be required for enhanced on-site compliance based on the residential  
9 development's market area with the percentage of IRUs detailed in the negotiated  
10 alternative; or

11 (3) IRUs with a greater number of bedrooms than is otherwise required in  
12 section 27-224(f)(2).

13 (e) The provisions of section 27-224(e) and (f) are applicable to any IRUs that  
14 are provided on-site of the residential development.

15 **Section 5.** That subsection (a) of section 27-229, D.R.M.C. is amended by adding the  
16 language underlined as follows:

17 **Sec. 27-229. – High impact developments.**

18 (a) Owners or developers of a high impact development must submit to HOST  
19 a high impact development compliance plan that demonstrates how it will satisfy the intent  
20 and purposes of division 2 of this article and Chapter 27, Article V, Division 2.

21 (1) The high impact development compliance plan shall demonstrate how the  
22 proposed development meets or exceeds the relevant standards set forth in this  
23 article; Chapter 27, Article V, Division 2; and the goals of the HOST strategic plan,  
24 comprehensive plan goals, and any small area plan applicable to the area of high  
25 impact development.

1 (2) The owner or developer must provide to HOST documentation detailing  
2 outreach to the surrounding community, including, but not limited to, the  
3 organizations and individuals engaged, and how the proposed high impact  
4 development compliance plan is responsive to the conducted community outreach.

5 (3) The high impact development compliance plan may include a combination  
6 of one or more of, but not be limited to, the following:

7 a. A plan to provide IRUs within the area of high impact development  
8 sufficient to meet or exceed one of the compliance options set forth in  
9 section 27-224(c).

10 b. The dedication of land within the area of the high impact  
11 development for the provision of affordable housing. In any such case, at a  
12 minimum, the land dedicated must be of sufficient size and have zoning  
13 entitlement in place to reasonably produce IRUs sufficient to meet the  
14 compliance requirements set forth in section 27-224(c).

15 c. A plan to provide IRUs within the area of high impact development  
16 at a greater depth of affordability than the compliance requirements set forth  
17 in section 27-224(c). In any such case, at a minimum, the total percent of  
18 IRUs provided in the high impact area shall not be less than eight (8) percent  
19 of total dwelling units and the majority of IRUs must serve households  
20 earning fifty (50) percent of area median income or less.

21 d. A plan to provide IRUs within the area of high impact development  
22 specifically designed to meet the needs of families and larger households.  
23 In any such case, at a minimum, the total percent of IRUs provided in the  
24 high impact development area shall not be less than eight (8) percent of  
25 total dwelling units and the majority of IRUs must include two (2), three (3),  
26 or four (4) bedrooms. The development must also contain family-friendly  
27 services and amenities. Amenities may include, but are not limited to, child-  
28 care; play area; community garden; and other on-site amenities to serve  
29 families.

1 (4) The director may grant access to the base incentives for on-site compliance  
2 set forth in section 27-224(b)(1) when the project is providing IRUs within the area  
3 of high impact development.

4 (5) The director may grant access to the enhanced incentives for on-site  
5 compliance set forth in section 27-224(c)(1) if the high impact development  
6 compliance plan proportionally meets or exceeds the on-site IRU requirements set  
7 forth in section 27-224(c). Alternatively, the director may grant access to the  
8 enhanced incentives for on-site compliance set forth in section 27-224(c)(1) when  
9 the project is providing IRUs within the area of high impact development, the high  
10 impact development compliance plan better supports the goals of the HOST  
11 strategic plan, comprehensive plan goals, and any small area plan applicable to  
12 the residential development compared to the enhanced on-site compliance  
13 requirements of section 27-224(c)(1), and the applicant provides at least one of  
14 the following:

15 a. a greater percentage of IRUs than would otherwise be required for  
16 enhanced on-site compliance based on the residential development's  
17 market area and compliance option, with the maximum AMI for eligible  
18 households detailed in the high impact development compliance plan; or

19 b. a maximum AMI for eligible households that is lower than would  
20 otherwise be required for enhanced on-site compliance based on the  
21 residential development's market area with the percentage of IRUs detailed  
22 in the high impact development compliance plan; or

23 c. IRUs with a greater number of bedrooms than is otherwise required  
24 in section 27-224(f)(2).

25 **REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

1 COMMITTEE APPROVAL DATE: September 10, 2024  
2 MAYOR-COUNCIL DATE: September 17, 2024 by Consent  
3 PASSED BY THE COUNCIL: \_\_\_\_\_,  
4 \_\_\_\_\_ - PRESIDENT  
5 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_,  
6 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
7 EX-OFFICIO CLERK OF THE  
8 CITY AND COUNTY OF DENVER  
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_ ; \_\_\_\_\_,  
10 PREPARED BY: Eliot C. Schaefer, Assistant City Attorney DATE: September 19, 2024  
11 Pursuant to section 13-9, D.R.M.C., this proposed ordinance has been reviewed by the Office of  
12 the City Attorney. We find no irregularity as to form and have no legal objection to the proposed  
13 resolution. The proposed ordinance is not submitted to the City Council for approval pursuant to  
14 §3.2.6 of the Charter.  
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16 Kerry Tipper, Denver City Attorney  
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18 BY: \_\_\_\_\_, Assistant City Attorney  
19 DATE: \_\_\_\_\_  
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